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SEALED

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

JUN 28 2007

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS *Michael N. Milby, Clerk of Court*

HOUSTON DIVISION

UNITED STATES OF AMERICA

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H 07 - 271
CRIMINAL NO.

v.

Bank Fraud (18 U.S.C. § 1344)
False Statement (18 U.S.C. § 1014)

RICHARD BELL

Defendant

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

(Bank Fraud, 18 U.S.C. § 1344)

A. INTRODUCTION

At all times material to this Indictment:

1. The Federal Deposit Insurance Corporation ("FDIC") was an agency of the United States established to protect depositors by insuring the deposits of member banks against loss up to \$100,000 with the purpose of preventing their collapse and instilling public confidence in the nation's banking institutions. The FDIC insurance fund was backed by the United States government.

2. Wells Fargo Bank, N.A. (“Wells Fargo”) was a financial institution located in Houston, Texas, the deposits of which were insured by the FDIC. Wells Fargo Private Bank provided financial services and products through Wells Fargo Bank, N.A. and its affiliates.

3. Defendant **RICHARD BELL** was a mortgage broker and self-styled real estate developer.

4. Harborside Mortgage Corporation (“Harborside Mortgage”) was a Texas corporation of which defendant **RICHARD BELL** was President and CEO.

5. In 1998, defendant **RICHARD BELL** filed for bankruptcy in the Southern District of Texas and was not discharged from bankruptcy until in or about August, 2000.

6. Allied Home Mortgage Capital Corporation (“Allied”) was a residential mortgage lender for whom defendant **RICHARD BELL** operated a branch office called “The Harborside Division.” **BELL** was a W-2 employee of Allied, and was paid a percentage of profits from the Harborside Division, to the extent there were any profits.

7. In 2000, Allied issued a W-2 wage and tax statement documenting W-2 wage income of \$10,973.88 for defendant **RICHARD BELL**.

8. In 2001, Allied issued a W-2 wage and tax statement documenting W-2

wage income of \$31, 000 for defendant **RICHARD BELL**.

9. In 2002, Allied issued a W-2 wage and tax statement documenting W-2 wage income of \$6,178.53 for defendant **RICHARD BELL**.

10. In 2003, defendant **RICHARD BELL** had zero (\$0)W-2 wage income from Allied.

11. In 2004, Allied issued a W-2 wage and tax statement documenting W-2 wage income of \$46,341.52 for defendant **RICHARD BELL**.

12. Joni Ballard (“Ballard”) was defendant **RICHARD BELL’S** wife, and was previously known as Joni Bell and Joni Klingman.

13. In or about March, 2004, defendant **RICHARD BELL** individually or through one of his companies purchased the Clarion Hotel off NASA Rd 1, but defaulted on financing and by in or about December, 2004, returned the property to the original selling bank with a deed in lieu of foreclosure.

14. On or about July 21, 2004, defendant **RICHARD BELL** and his wife Ballard sold their primary residence located at 2533 Du Lac Trace, Seabrook, Texas (“2533 Du Lac”).

15. On or about December 17, 2004, defendant **RICHARD BELL** and Ballard contracted to buy a new home located at 1612 Enterprise, League City, Texas for \$1,293,000.

16. On or about December 30, 2004, defendant **RICHARD BELL** and Ballard applied for a \$1,000,000 loan from Wells Fargo to buy 1612 Enterprise (“Enterprise loan”), with the seller agreeing to provide additional subordinate financing of \$130,000.

17. Defendant **RICHARD BELL** submitted numerous documents to Wells Fargo as part of the Enterprise loan application, including but not limited to check stubs, personal W-2 wage and tax statements, a cashier’s check as proof of a \$60,000 bonus **BELL** earned to be used as the down payment, and a completed Uniform Residential Loan Application (“Loan Application”).

18. Wells Fargo approved and funded the loan based on information defendant **RICHARD BELL** provided.

19. The loan closing occurred on or about December 30, 2004, at which time defendant **RICHARD BELL** and Ballard signed numerous documents, including but not limited to the Loan Application.

B. THE SCHEME AND ARTIFICE

21. Beginning in or about December, 2004, and continuing through on or about December 30, 2004, in the Houston Division of the Southern District of Texas,

RICHARD BELL,

the defendant, aided and abetted by others known and unknown to the grand jury,

did knowingly execute and attempt to execute a scheme and artifice to defraud Wells Fargo, and to obtain moneys, funds and credits owned by and under the custody and control of Wells Fargo, by means of material false and fraudulent pretenses, representations, and promises.

C. THE MANNER AND MEANS

The manner and means of the scheme and artifice to defraud included, but were not limited to the following:

22. It was a part of the scheme and artifice to defraud that in or about December, 2004, defendant **RICHARD BELL** prepared or caused to be prepared a Loan Application that contained false and fraudulent information about **BELL's** income, assets, bonus, and credit history in order to obtain the Enterprise loan.

23. It was further a part of the scheme and artifice to defraud that on or about December 30, 2004, defendant **RICHARD BELL** signed and initialed a Loan Application containing the false and fraudulent information he provided Wells Fargo in order to obtain the Enterprise loan.

24. It was further a part of the scheme and artifice to defraud that defendant **RICHARD BELL** would and did prepare and cause to be prepared false and fraudulent W-2 wage and tax statements to cause Wells Fargo to fund the Enterprise loan.

25. It was further a part of the scheme and artifice to defraud that defendant **RICHARD BELL** would and did prepare and cause to be prepared false and fraudulent pay stubs from Allied to cause Wells Fargo to fund the Enterprise loan.

26. It was further a part of the scheme and artifice to defraud that defendant **RICHARD BELL** would and did prepare and cause to be prepared a false and fraudulent bonus check to cause Wells Fargo to fund the Enterprise loan.

27. It was further a part of the scheme and artifice to defraud that defendant **RICHARD BELL** would and did prepare and cause to be prepared loan closing documents, and did attend the loan closing and sign loan closing documents, causing Wells Fargo to fund the Enterprise loan.

D. EXECUTION OF THE SCHEME

28. On or about December 30, 2004, within the Houston Division of the Southern District of Texas,

RICHARD BELL,

defendant herein, aided and abetted by others known and unknown to the grand jury, knowingly executed and attempted to execute the aforesaid scheme and artifice to defraud Wells Fargo and to obtain moneys, funds and credits owned by and under the custody and control of Wells Fargo, by means of material false and fraudulent pretenses, representations, and promises by submitting a Loan

Application for the purchase of 1612 Enterprise which contained false and fraudulent entries and which was supported by false and fraudulent documentation as set forth below:

- a. a pay stub dated December 15, 2003 from Allied showing W-2 monthly income of \$48,750 and W-2 yearly income of \$585,000 that was false and fraudulent in that Allied did not issue this pay stub and **BELL's** true W-2 income from Allied in 2003 was zero (0\$).
- b. a pay stub dated May 15, 2004 from Allied showing W-2 monthly income of \$48,750 and W-2 year-to-date income of \$243,750 that was false and fraudulent in that Allied did not issue the pay stub and **BELL's** true W-2 income from Allied, for the entire year of 2004, was \$46,341.52.
- c. a pay stub dated December 15, 2004 from Allied showing W-2 monthly income of \$48,750 and W-2 yearly income of \$585,000 that was false and fraudulent in that Allied did not issue this pay stub and **BELL's** true W-2 income from Allied in 2004 was \$46,341.52.
- d. a 2002 W-2 wage and tax statement from Allied showing \$491,915 in W-2 wage income that was false and fraudulent in that Allied did not issue this W-2 and **BELL's** true wage income from

Allied in 2002 was \$6,178.53.

- e. a 2003 W-2 wage and tax statement from Allied showing \$585,000 in W-2 wage income that was false and fraudulent in that Allied did not issue this W-2 and **BELL's** true wage income from Allied in 2003 was zero (\$0).
- f. an entry on his Loan Application that his present monthly income from Allied was \$50,865 that was false and fraudulent in **BELL's** true wage income for the entire year of 2004 was \$46,341.52.
- g. an entry on his Loan Application that he that he presently owned 2533 Du Lac with a present market value of \$400,000, when in reality **BELL** and Ballard had sold 2533 Du Lac in July, 2004.
- h. an entry on his Loan Application that he had not been declared bankrupt within the past 7 years when in reality **BELL** had been declared bankrupt within the previous 7 years in the Southern District of Texas.
- i. an entry on his Loan Application that he had not directly or indirectly been obligated on any loan which resulted in foreclosure, transfer of title in lieu of foreclosure, or judgment, when in reality had

transferred title in lieu of foreclosure on the Clarion Hotel.

j. a copy of a cashier's check payable to "RICHARD D BELL 2004 BONUS HMC" as proof of a bonus/commission **BELL** earned to be used as the down payment that was false and fraudulent in that **BELL** merely withdrew \$60,000 from one of his own bank accounts and bought the cashier's check.

29. On or about December 30, 2004, defendant **RICHARD BELL** signed and initialed the Uniform Residential Loan Application containing the false and fraudulent information he provided to Wells Fargo.

30. On or about December 30, 2004, defendant **RICHARD BELL** executed closing documents that caused Wells Fargo to fund the Enterprise loan.

In violation of Title 18, United States Code, Sections 1344 and 2.

COUNT TWO

(False Statement, 18 U.S.C. §1014)

On or about December 30, 2004, in the Houston Division of the Southern District of Texas,

RICHARD BELL,

defendant herein, aided and abetted by others known and unknown to the grand jury, made and caused to be made a material false statement for the purpose of

influencing the action of Wells Fargo, a financial institution whose deposits were insured by the Federal Deposit Insurance Corporation, in connection with an application for a \$1,000,000 loan to buy 1612 Enterprise, League City, Texas 77573, in that the defendant represented and caused to be represented that:

(1) in 2002 he had yearly income of \$491,915 from Allied, when in truth and fact as the defendant then and there well knew, his actual income from Allied in 2002 was \$6,178.53, which the defendant failed to disclose to the bank;

(2) in 2003 he had yearly income of \$585,000 from Allied, when in truth and fact as the defendant then and there well knew, his actual income from Allied in 2003 was zero (\$0), which the defendant failed to disclose to the bank;

(3) in 2004 he earned \$50,865 in monthly income from Allied, when in truth and fact as the defendant then and there well knew, his total yearly income from Allied in 2004 was \$46,341.52, which the defendant failed to disclose to the bank;

(4) he had not been declared bankrupt within the previous 7 years, when in truth and fact as the defendant then and there well knew, he had been declared bankrupt within the previous 7 years, which the defendant failed to disclose to the bank.

In violation of Title 18, United States Code, Sections 1014 & 2.

COUNT THREE

(Bank Fraud, 18 U.S.C. § 1344)

A. INTRODUCTION

1. The Grand Jury realleges and incorporates by reference all of the allegations contained in paragraphs 1 through 13 of the INTRODUCTION in Count One of the Indictment.

2. In 2005 and 2006, defendant **RICHARD BELL** had zero (\$0) W-2 income from Allied.

3. Although the branch office defendant **RICHARD BELL** operated for Allied was known as “The Harborside Division.” “Harborside Mortgage” was not part of Allied, but rather, was defendant **RICHARD BELL**’s company with a similar name.

4. Harborside Mortgage was described as a full-service commercial and residential mortgage broker and commercial developer.

5. On or about December 1, 2003, to on or about August 15, 2004, Harborside Mortgage used an outside payroll service called “Strategic Outsourcing, Inc.” (“SOI”) of Charlotte, North Carolina to issue payroll and prepare W-2s for Harborside Mortgage employees, including defendant **RICHARD BELL**.

6. In 2003, SOI W-2 income for defendant **RICHARD BELL** was \$10,000.
7. In 2004, SOI W-2 income for defendant **RICHARD BELL** was \$75,000.
8. In 2005 and 2006, there was no SOI W-2 income for defendant **RICHARD BELL** as Harborside ceased to be a client of SOI's on or about August 15, 2004.
9. Fidelity Capital Real Estate Investments, LLC ("FCRE") was a Texas limited liability corporation **BELL** used to conduct real estate transactions.
10. Prior to May, 2006, defendant **RICHARD BELL** had partners in FCRE but by on or about May 5, 2006, defendant **RICHARD BELL** was 100% owner of FCRE.
11. FCRE also held real estate located at 17100 El Camino Real, Houston, Texas ("El Camino property").
12. Wachovia Bank was a financial institution located in Houston, Texas, the deposits of which were insured by the FDIC.
13. In or about May, 2006, defendant **RICHARD BELL**, using FCRE as borrower, applied for a loan from Wachovia Bank in the amount of \$1,700,000 ("the loan") to refinance the El Camino property.
14. Defendant **RICHARD BELL** submitted numerous documents to Wachovia Bank as part of FCRE's loan application, including but not limited to pay stubs, personal net worth statements, personal income tax returns, personal W-2 wage

and tax statements, and commercial lease agreements.

15. Wachovia Bank approved the loan application based on information defendant **RICHARD BELL** provided.

16. The loan closing occurred on or about May 30, 2006, at which time defendant **RICHARD BELL** signed numerous documents, including but not limited to a Promissory Note and a personal Unconditional Guaranty for repayment of the loan.

17. On or about May 30, 2006, Wachovia Bank funded the loan to FCRE.

18. On or about October 30, 2006, FCRE defaulted on the loan.

B. THE SCHEME AND ARTIFICE

19. Beginning on or about May 30, 2006, and continuing through on or about October 30, 2006, in the Houston Division of the Southern District of Texas,

RICHARD BELL,

defendant herein, aided and abetted by others known and unknown to the grand jury, did knowingly execute and attempt to execute a scheme and artifice to defraud Wachovia Bank, and to obtain moneys, funds and credits owned by and under the custody and control of Wachovia Bank, by means of material false and fraudulent pretenses, representations, and promises.

C. THE MANNER AND MEANS

The manner and means of the scheme and artifice to defraud included, but were not limited to the following:

20. It was a part of the scheme and artifice to defraud that defendant **RICHARD BELL** would and did prepare and cause to be prepared false and fraudulent personal net worth statements to cause Wachovia Bank to fund the loan to FCRE.

21. It was further a part of the scheme and artifice to defraud that the defendant **RICHARD BELL** would and did prepare and cause to be prepared false and fraudulent personal income tax returns to cause Wachovia Bank to fund the loan to FCRE.

22. It was further a part of the scheme and artifice to defraud that defendant **RICHARD BELL** would and did prepare and cause to be prepared false and fraudulent W-2 wage and tax statements to cause Wachovia Bank to fund the loan to FCRE.

23. It was further a part of the scheme and artifice to defraud that defendant **RICHARD BELL** would and did prepare and cause to be prepared false and fraudulent pay stubs to cause Wachovia Bank to fund the loan to FCRE.

24. It was further a part of the scheme and artifice to defraud that defendant

RICHARD BELL would and did prepare and cause to be prepared false and fraudulent commercial leases to cause Wachovia Bank to fund the loan to FCRE.

25. It was further a part of the scheme and artifice to defraud that defendant **RICHARD BELL** prepared and caused to be prepared loan closing documents, and would and did attend the loan closing and sign loan closing documents, causing Wachovia Bank to fund the loan to FCRE.

D. EXECUTION OF THE SCHEME

26. On or about May 30, 2006, within the Houston Division of the Southern District of Texas,

RICHARD BELL,

defendant herein, aided and abetter by others known and unknown to the grand jury, knowingly executed and attempted to execute the aforesaid scheme and artifice to defraud Wachovia Bank and to obtain moneys, funds and credits owned by and under the custody and control of Wachovia Bank, by means of material false and fraudulent pretenses, representations, and promises by submitting false information and causing fraudulent entries that were supported by false and fraudulent documentation as set forth below:

- a. a personal net worth statement dated February 1, 2006 that was false and fraudulent in that: (1) the statement's bank account balances

were grossly overstated; (2) it included \$500,000 from “WSPA Earnest Money” that did not belong to **BELL**; (3) it included \$1,370,000 from “Commercial Land 96 Acres” without disclosing debt of \$720,000 on the property; (4) it included \$48,750 of monthly income from Allied when **BELL**’s actual monthly income from Allied was zero (\$0) in 2006; (5) and it included \$20,000 of monthly income from Harborside Mortgage Corporation when **BELL**’s actual monthly income from Harborside Mortgage was zero (\$0) in 2006.

b. a 2003 personal income tax return that was false and fraudulent in that: (1) **BELL** did not file a 2003 personal income tax return; (2) the return was not, as it stated, prepared by certified public accountant Dennis Long; (3) the joint return payment voucher and payment check attached to the return was never filed with the Internal Revenue Service; (4) **BELL** did not have \$585,000 of W-2 wage from Allied because his true W-2 wage income from Allied in 2003 was zero (\$0); (5) **BELL** did not have \$128,645 of federal income tax withheld from Forms W-2 and 1099 in 2003.

c. a 2005 joint Application for Automatic Extension of Time to File U.S. Individual Income Tax Return by **BELL** and his wife Ballard

showing an estimated total tax liability of \$275,000 that was false and fraudulent in that it was different from the application for extension **BELL** actually filed with the Internal Revenue Service.

- d. a 2004 personal income tax return that was false and fraudulent in that: (1) **BELL** did not file a 2004 personal income tax return; (2) the return was not, as it stated, prepared by certified public accountant Dennis Long; (3) the joint return payment voucher and payment check attached to the return was never filed with the Internal Revenue Service; (4) **BELL** did not have \$585,000 of W-2 wage from Allied because his true W-2 wage income from Allied in 2004 was \$46,341.52; (5) **BELL** did not have \$197,302 of federal income tax withheld from Forms W-2 and 1099 in 2004; (6) **BELL** did not have W-2 wage income of \$240,000 from SOI because **BELL's** true W-2 income from SOI in 2004 was \$75,000.
- e. a pay stub dated December 15, 2003 from Allied showing W-2 monthly income of \$48,750 and W-2 yearly income of \$585,000 that was false and fraudulent in that Allied did not issue this pay stub and because **BELL's** true W-2 wage income from Allied in 2003 was zero (\$0).

- f. a pay stub dated December 15, 2004 from Allied documenting W-2 monthly income of \$48,750 and W-2 yearly income of \$585,000 that was false and fraudulent in that Allied did not issue this pay stub and because BELL's true W-2 income from Allied in 2004 was \$46,341.52.
- g. a pay stub dated December 15, 2005 from Allied showing W-2 monthly income of \$48,750 and W-2 yearly income of \$585,000 that was false and fraudulent in that Allied did not issue this pay stub and because **BELL** had zero (\$0) W-2 income from Allied in 2005.
- h. a pay stub dated December 30, 2005 from Harborside Mortgage showing W-2 monthly income of \$20,000 and W-2 yearly income of \$240,000 that was false and fraudulent in that **BELL** had zero (\$0) W-2 income from Harborside Mortgage in 2005.
- i. a 2004 W-2 wage and tax statement from Allied documenting \$585,000 in W-2 wage income that was false and fraudulent in that Allied did not issue this W-2 wage and tax statement and because **BELL's** true W-2 income from Allied in 2004 was \$46,341.52.
- k. a 2005 W-2 wage and tax statement from Allied documenting W-2 wages of \$585,000 that was false and fraudulent in that Allied did not

issue this W-2 and because **BELL**'s true W-2 income from Allied in 2005 was zero (\$0).

1. a 2005 W-2 wage and tax statement from SOI documenting \$240,000 in w-2 wage income that was false and fraudulent in that SOI did not issue this W-2 wage and because **BELL**'s true W-2 income from SOI in 2005 was zero(\$0).

m. a lease dated 2004 and lease amendment dated 2006 signed by William Taylor as proof of monthly lease income from Harborside Mortgage to FCRE that were false and fraudulent in that William Taylor did not sign the lease or the lease amendment.

27. On or about May 30, 2006, defendant **RICHARD BELL** executed closing documents individually and on behalf of FCRE that caused Wachovia Bank to fund the loan to FCRE in the amount of \$1,700,000.

In violation of Title 18, United States Code, Sections 1344 and 2.

COUNT FOUR
(False Statement, 18 U.S.C. §1014)

On or about May 30, 2006, in the Houston Division of the Southern District of Texas,

RICHARD BELL,

defendant herein, aided and abetted by others known and unknown to the grand jury, made and caused to be made a material false statement for the purpose of influencing the action of Wachovia Bank, a financial institution whose deposits were insured by the Federal Deposit Insurance Corporation, in connection with an application for a \$1,700,000 loan to FCRE, in that the defendant represented and caused to be represented that:

(1) in 2003 he had yearly income of \$585,000 from Allied, when in truth and fact as the defendant then and there well knew, his actual income from Allied in 2003 was zero (\$0), which the defendant failed to disclose to the bank;

(2) in 2004 he had yearly income of \$585,000 from Allied, when in truth and fact as the defendant then and there well knew, his actual income from Allied in 2004 was \$46,341.52, which the defendant failed to disclose to the bank;

(3) in 2004 he had yearly income of \$240,000 from SOI, when in truth and fact as the defendant then and there well knew, his actual income from SOI in 2004 was \$75,000, which the defendant failed to disclose to the bank;

(4) in 2005 he had yearly income of \$585,000 from Allied, when in truth and fact as the defendant then and there well knew, his true income from Allied in 2005 was zero (\$0), which the defendant failed to disclose to the bank.

In violation of Title 18, United States Code, Sections 1014 & 2.

COUNT FIVE

(Bank Fraud, 18 U.S.C. § 1344)

A. INTRODUCTION

1. The Grand Jury realleges and incorporates by reference all of the allegations contained in paragraphs 1 through 13 of the INTRODUCTION in Count One and paragraphs 1 through 18 of the INTRODUCTION in Count Three of the Indictment.

2. After obtaining the \$1,700,000 loan, defendant **RICHARD BELL**, using Harborside Mortgage as the named borrower, applied for another loan from Wachovia in the amount of \$2,600,000 (“second loan”).

3. The second loan was to be a term loan for \$1,800,000, and \$800,000 line of credit to provide defendant **RICHARD BELL** with “working capital.”

4. Given the recency of the loan to FCRE, defendant **RICHARD BELL** re-presented the same documents to Wachovia Bank to support the second loan that he had presented to support the loan to FCRE.

5. Defendant **RICHARD BELL** also provided verbal and written information to Wachovia Bank to support his application for the second loan, including a letter dated June 17, 2006, to Wachovia Bank’s risk officer. In the letter, **BELL** talks about his assets, including the Clarion Hotel, which he said “HMC’s portion of the

Partnership is \$1,370,000.00 which I will be paid when we sell the property or develop the property.” He also noted that “My source of income is consistent, growing...”

6. Wachovia Bank approved the second loan based on the information defendant **RICHARD BELL** provided.

7. On or about July 11, 2006, Wachovia Bank received an anonymous package that included copies of civil judgments against defendant **RICHARD BELL**, which **BELL** had not disclosed to Wachovia Bank. Based on the new information, Wachovia Bank declined to make the loan, and withdrew its former approval.

B. THE SCHEME AND ARTIFICE

8. Beginning on or about June 17, 2006, and continuing through on or about July 11, 2006, in the Houston Division of the Southern District of Texas,

RICHARD BELL,

defendant herein, aided and abetted by others known and unknown to the grand jury, did knowingly execute and attempt to execute a scheme and artifice to defraud Wachovia Bank, and to obtain moneys, funds and credits owned by and under the custody and control of Wachovia Bank, by means of material false and fraudulent pretenses, representations, and promises.

C. THE MANNER AND MEANS

The manner and means of the scheme and artifice to defraud included, but were not limited to the following:

9. It was a part of the scheme and artifice to defraud that defendant **RICHARD BELL** would and did prepare and cause to be prepared false and fraudulent personal net worth statements to cause Wachovia Bank to fund the second loan.
10. It was further a part of the scheme and artifice to defraud that the defendant **RICHARD BELL** would and did prepare and cause to be prepared false and fraudulent personal income tax returns to cause Wachovia Bank to fund the second loan.
11. It was further a part of the scheme and artifice to defraud that defendant **RICHARD BELL** would and did prepare and cause to be prepared false and fraudulent W-2 wage and tax statements to cause Wachovia Bank to fund the second loan.
12. It was further a part of the scheme and artifice to defraud that defendant **RICHARD BELL** would and did prepare and cause to be prepared false and fraudulent pay stubs to cause Wachovia Bank to fund the second loan.
13. It was further a part of the scheme and artifice to defraud that defendant

RICHARD BELL would and did prepare and cause to be prepared false and fraudulent commercial leases to cause Wachovia Bank to fund the second loan.

14. It was further a part of the scheme and artifice to defraud that defendant **RICHARD BELL** prepared and caused to be a letter outlining his assets and income to cause Wachovia Bank to fund the second loan.

D. EXECUTION OF THE SCHEME

15. On or about June 17, 2006, within the Houston Division of the Southern District of Texas,

RICHARD BELL,

defendant herein, aided and abetted by others known and unknown to the grand jury, knowingly executed and attempted to execute the aforesaid scheme and artifice to defraud Wachovia Bank and to obtain moneys, funds and credits owned by and under the custody and control of Wachovia Bank, by means of material false and fraudulent pretenses, representations, and promises by submitting false information and causing fraudulent entries that were supported by false and fraudulent documentation as set forth below:

- a. a personal net worth statement dated February 1, 2006 that was false and fraudulent in that: (1) the statement's bank account balances were grossly overstated; (2) it included \$500,000 from "WSPA Earnest

Money” that did not belong to **BELL**; (3) it included \$1,370,000 from “Commercial Land 96 Acres” without disclosing debt of \$720,000 on the property; (4) it included \$48,750 of monthly income from Allied when **BELL**’s actual monthly income from Allied was zero (\$0) in 2006; (5) and it included \$20,000 of monthly income from Harborside Mortgage Corporation when **BELL**’s actual monthly income from Harborside Mortgage was zero (\$0) in 2006.

- b. a 2003 personal income tax return that was false and fraudulent in that: (1) **BELL** did not file a 2003 personal income tax return; (2) the return was not, as it stated, prepared by certified public accountant Dennis Long; (3) the joint return payment voucher and payment check attached to the return was never filed with the Internal Revenue Service; (4) **BELL** did not have \$585,000 of W-2 wage from Allied because his true W-2 wage income from Allied in 2003 was zero (\$0); (5) **BELL** did not have \$128,645 of federal income tax withheld from Forms W-2 and 1099 in 2003.
- c. a 2005 joint Application for Automatic Extension of Time to File U.S. Individual Income Tax Return by **BELL** and his wife Ballard showing an estimated total tax liability of \$275,000 that was false and

fraudulent in that it was different from the application for extension
BELL actually filed with the Internal Revenue Service.

- d. a 2004 personal income tax return that was false and fraudulent in that: (1) **BELL** did not file a 2004 personal income tax return; (2) the return was not, as it stated, prepared by certified public accountant Dennis Long; (3) the joint return payment voucher and payment check attached to the return was never filed with the Internal Revenue Service; (4) **BELL** did not have \$585,000 of W-2 wage from Allied because his true W-2 wage income from Allied in 2004 was \$46,341.52; (5) **BELL** did not have \$197,302 of federal income tax withheld from Forms W-2 and 1099 in 2004; (6) **BELL** did not have W-2 wage income of \$240,000 from SOI because **BELL's** true W-2 income from SOI in 2004 was \$75,000.
- e. a pay stub dated December 15, 2003 from Allied showing W-2 monthly income of \$48,750 and W-2 yearly income of \$585,000 that was false and fraudulent in that Allied did not issue this pay stub and because **BELL's** true W-2 wage income from Allied in 2003 was zero (\$0).
- f. a pay stub dated December 15, 2004 from Allied documenting W-2

monthly income of \$48,750 and W-2 yearly income of \$585,000 that was false and fraudulent in that Allied did not issue this pay stub and because **BELL's** true W-2 income from Allied in 2004 was \$46,341.52.

- g. a pay stub dated December 15, 2005 from Allied showing W-2 monthly income of \$48,750 and W-2 yearly income of \$585,000 that was false and fraudulent in that Allied did not issue this pay stub and because **BELL** had zero (\$0) W-2 income from Allied in 2005.
- h. a pay stub dated December 30, 2005 from Harborside Mortgage showing W-2 monthly income of \$20,000 and W-2 yearly income of \$240,000 that was false and fraudulent in that **BELL** had zero (\$0) W-2 income from Harborside Mortgage in 2005.
- i. a 2004 W-2 wage and tax statement from Allied documenting \$585,000 in W-2 wage income that was false and fraudulent in that Allied did not issue this W-2 wage and tax statement and because **BELL's** true W-2 income from Allied in 2004 was \$46,341.52.
- k. a 2005 W-2 wage and tax statement from Allied documenting W-2 wages of \$585,000 that was false and fraudulent in that Allied did not issue this W-2 and because **BELL's** true W-2 income from Allied in

2005 was zero (\$0).

- l. a 2005 W-2 wage and tax statement from SOI documenting \$240,000 in w-2 wage income that was false and fraudulent in that SOI did not issue this W-2 wage and because **BELL's** true W-2 income from SOI in 2005 was zero(\$0).
- m. a lease dated 2004 and lease amendment dated 2006 signed by William Taylor as proof of monthly lease income from Harborside Mortgage to FCRE that were false and fraudulent in that William Taylor did not sign the lease or the lease amendment;
- n. a letter dated June 17, 2006 from defendant **RICHARD BELL** to a Wachovia Bank risk officer that was false and fraudulent in that it stated **BELL** owned the Clarion Hotel when in fact the Clarion Hotel had been returned to its seller with a deed in lieu of foreclosure.

In violation of Title 18, United States Code, Sections 1344 and 2.

COUNT SIX

(False Statement, 18 U.S.C. §1014)

On or about June 17, 2006, in the Houston Division of the Southern District
of Texas,

RICHARD BELL,

defendant herein, aided and abetted by others known and unknown to the grand jury, made and caused to be made a material false statement for the purpose of influencing the action of Wachovia Bank, a financial institution whose deposits were insured by the Federal Deposit Insurance Corporation, in connection with an application for a \$2,600,000 loan to Harborside Mortgage, in that the defendant represented and caused to be represented that:

(1) in 2003 he had yearly income of \$585,000 from Allied, when in truth and fact as the defendant then and there well knew, his actual income from Allied in 2003 was zero (\$0), which the defendant failed to disclose to the bank;

(2) in 2004 he had yearly income of \$585,000 from Allied, when in truth and fact as the defendant then and there well knew, his actual income from Allied in 2004 was \$46,341.52, which the defendant failed to disclose to the bank;

(3) in 2004 he had yearly income of \$240,000 from SOI, when in truth and fact as the defendant then and there well knew, his actual income from SOI in 2004 was \$75,000, which the defendant failed to disclose to the bank;

(4) in 2005 he had yearly income of \$585,000 from Allied, when in truth and fact as the defendant then and there well knew, his true income from Allied in 2005 was zero (\$0), which the defendant failed to disclose to the bank;

(5) he owned the Clarion Hotel, when in truth and fact as the defendant then and

there well knew, the Clarion Hotel had been returned to the seller with a deed in lieu of foreclosure.

In violation of Title 18, United States Code, Sections 1014 & 2.

NOTICE OF FORFEITURE
(18 U.S.C. § 982(a)(2)(A))

Pursuant to Title 28, United States Code, Section 2461(c) and Title 18, United States Code, Section 982(a)(2)(A), the United States gives notice that the defendant

RICHARD BELL

shall forfeit to the United States all property which constitutes or is derived from proceeds which were obtained directly or indirectly as the result of a violation of Title 18, United States Code, Section 1344 (as charged in Counts One and Three of the indictment), and Title 18, United States Code, Section 1014 (as charged in Counts Two and Four of the Indictment). The property subject to forfeiture, includes, but is not limited to, the following property:

Counts One and Three: About \$1,000,000.00 in United States Dollars; and

Property located at 1612 Enterprise, League City, Texas, 77573, legally described as: Lot 11, in Block 1, of South Shore Lake Estates, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Volume 18, Page 723 in the Official Public Records of Real Property of Galveston County, Texas, and under

Clerk's File No. 9101217 and Supplemental Declaration recorded under Clerk's File No(s). 9743305 and 2003050759 in the Official Public Records of Galveston County, Texas, and all improvements, buildings, structures and appurtenances.

Counts Two and Four: About \$1,700,000.00 in United States Dollars.

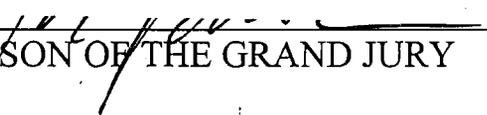
SUBSTITUTE ASSETS

In the event that the property subject to forfeiture as a result of any act or omission of the defendant:

- a. cannot be located upon exercise of due diligence;
- b. has been placed beyond the jurisdiction of the Court;
- c. has been transferred or sold to, or deposited with a third party;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States to seek forfeiture of any other property of defendant **RICHARD BELL** up to the value of such property pursuant to Title 21, United States Code, Section 853(p).

Original Signature on File



FOREPERSON OF THE GRAND JURY

DONALD J. DeGABRIELLE, JR.
UNITED STATES ATTORNEY

By: 
BELINDA BEEK
Assistant United States Attorney